IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1064 of 1981

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

UNION OF INDIA & ANR TO BE SERVED ON SECRETARY

Versus

DAHYABHAI NAROTTAMBHAI DESAI,

Appearance:

MR YN RAVANI for Petitioner No. 1

NOTICE SERVED for Petitioner No. 2

MR MC RAYAJIWALA for Respondent No. 1

CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 26/12/2002

ORAL JUDGEMENT

1. This is a revision under section 115, CPC, and will now be governed by the amendment introduced to the said section, and particularly in the proviso thereto by the Civil Procedure Code (Amendment) Act, 1999.

2. The opponent in this application was the original plaintiff who had filed Regular Civil Suit No.22/79 in the court of Civil Judge (Senior Division), Navsari, who ultimately dismissed the suit of the plaintiff. Being aggrieved by the dismissal of the suit, the opponent preferred a regular appeal under section 96, CPC, being Regular Civil Appeal No.56/80, which was allowed by the appellate court and consequently resulted in a decree in favour of the opponent plaintiff. Hence the present revision application by the original-defendants.

3. It must first be noted that this revision is incompetent in view of the amendment introduced to the section 115, CPC, by the aforesaid Act. It also requires to be noted that the judgement and decree impugned in the present revision is a judgement delivered by the lower appellate court in an appeal under section 96, CPC, which is appealable under section 100, CPC. Even on this ground the revision under section 115, CPC, is not maintainable.

4. Consequently, this revision is dismissed and rule is discharged with no order as to costs.

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